

REMARKS

Claim Rejections

Claims 1-3, 5 and 7-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dyer (6,978,163) in view of Banh et al. (6,526,294) and Yamaguchi et al. (2005/0085276) further in view of Official Notice. Claims 4 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dyer in view of Banh et al. and Yamaguchi et al., and further in view of Zablocki et al. (6,731,761).

Drawings

It is noted that no Patent Drawing Review (Form PTO-948) was received with the outstanding Office Action. Thus, Applicant must assume that the drawings are acceptable as filed.

Claim Amendments

By this Amendment, Applicant has added claims 18-20 to this application. It is believed that the new claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112 (See, e.g., p. 9, ll. 15-34 and p. 10, ll. 19-24), and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

The new claims are directed toward: a Bluetooth™ hands-free kit structure in which wherein the structure includes ***only one*** Bluetooth™ module; a Bluetooth™ hands-free kit structure configured to be capable of ***seamlessly transferring the vocal signals during a phone call*** from being ***outputted by the audio output to being outputted by the Bluetooth™ earphone***, the transfer being triggered by the ***removal of the earphone from the stand***; a Bluetooth™ hands-free kit structure configured to be capable of ***seamlessly transferring the vocal signals*** during a phone call ***from being outputted by the Bluetooth™ earphone to being outputted by the audio output***, the transfer being triggered by ***docking the earphone with the stand***.

Dryer teaches: a dongle 205 including a transceiver 208, a battery 212, and a battery charger 225, as well as a wireless handset 210 with a battery 230. According to Dyer, the dongle can be used in Bluetooth™ environment, e.g. the

signal is Bluetooth™ one. However, it is important to notice that Dyer's invention does not teach or suggest that his invention can be used as a loudspeaker.

In comparison, Application teaches a device which is a combination of wireless Bluetooth™ headphone (earphone) charger for charging the battery of Bluetooth™ headphone (earphone) and a loudspeaker specifically designed for such application, e.g., as when driving a car. Applicant's invention is not used as a transceiver. Since Dyer's transceiver is transceiving the Bluetooth™ signal from the transceiver to the earphone, Dyer's invention needs **two Bluetooth™ modules** (chip sets); one for the transceiver and one for the earphone, in order for the transceiver and the earphone to communicate. In contrast, Applicant's invention only needs **one Bluetooth™ module** (chip set) for the earphone.

Furthermore, Applicant's device offers many advantages not provided by the cited art. For example, when a Bluetooth™ mobile phone user is driving a car (for safety and depending on the situation) he can use either the Bluetooth™ earphone or the loudspeaker to receive the Bluetooth™ signal from the Bluetooth™ mobile phone. In Applicant's invention, the Bluetooth™ module is in the Bluetooth™ earphone, and ***only in the Bluetooth™ earphone***, and when the Bluetooth™ earphone is plugged into the loudspeaker, the loudspeaker is using the Bluetooth™ module in the Bluetooth™ earphone to receive the Bluetooth™ signal from the Bluetooth™ mobile phone, so the mobile phone user (the car driver) can hear the voice from the loudspeaker when driving the car. In the alternative, the driver can use the Bluetooth™ earphone, instead of the loudspeaker, when driving in the car. When the Bluetooth™ earphone is plugged into Applicant's device, the earphone enables the loudspeaker to receive the Bluetooth™ signal from the mobile phone. At the same time, Applicant combines the battery charger and the loudspeaker together in one set, so that the Bluetooth™ earphone is charged. Dyer's invention never suggests or teaches that his invention can be a loudspeaker and a battery charger together.

Dyer does not teach: a Bluetooth™ hands-free kit structure, including an integrated Bluetooth™ earphone, a stand, and an integration of audio output apparatus, as recited in claim 1. Nor does the reference teach: a Bluetooth™ hands-free kit structure in which the structure includes only one Bluetooth™ module;

a Bluetooth™ hands-free kit structure configured to be capable of seamlessly transferring the vocal signals during a phone call from being outputted by the audio output to being outputted by the Bluetooth™ earphone , the transfer being triggered by the removal of the earphone from the stand; a Bluetooth™ hands-free kit structure configured to be capable of seamlessly transferring the vocal signals during a phone call from being outputted by the Bluetooth™ earphone to being outputted by the audio output, the transfer being triggered by docking the earphone with the stand.

Banh et al. teach: a short-range wireless communication device (SRWCD) 10 including a base unit 50, a voltage source or battery 34, a transmitter 12, and a receiver 14. An audio circuit 16 processes audio signals received by the base unit 50 through the microphone 22 and outputs the signal to the transmitter 12 or a speaker 20. It is important to note that Banh's specification does not suggest or teach that his invention could be used in Bluetooth™ environment. Applicant submits that designing a device for use in a Bluetooth™ environment requires specialized circuit design in order to integrate the device with a Bluetooth™ module. However, Banh's disclosure fails to disclose that his circuit design can be used in a Bluetooth™ environment, and thus the Examiner cannot assume that it is suitable for such an application.

Banh et al. does not teach: a Bluetooth™ hands-free kit structure, including an integrated Bluetooth™ earphone, a stand, and an integration of audio output apparatus, as recited in claim 1. Nor does the reference teach: a Bluetooth™ hands-free kit structure in which the structure includes only one Bluetooth™ module; a Bluetooth™ hands-free kit structure configured to be capable of seamlessly transferring the vocal signals during a phone call from being outputted by the audio output to being outputted by the Bluetooth™ earphone, the transfer being triggered by the removal of the earphone from the stand; a Bluetooth™ hands-free kit structure configured to be capable of seamlessly transferring the vocal signals during a phone call from being outputted by the Bluetooth™ earphone to being outputted by the audio output, the transfer being triggered by docking the earphone with the stand.

Yamaguchi et al. teach: a speaker system for a mobile phone including an enclosure 201 with power supply means 209, a microphone 211 and speakers 215, 215'. However, it is important to notice that, Yamaguchi's invention is only as being used in a traditional wireless phone set; it is not taught as being used in a mobile phone system, much less a Bluetooth™ mobile phone system. In addition, the battery charger of Yamaguchi functions to charge the battery of the phone set, not the earphone.

Yamaguchi et al. do not teach: a Bluetooth™ hands-free kit structure, including an integrated Bluetooth™ earphone, a stand, and an integration of audio output apparatus, as recited in claim 1. Nor does the reference teach: a Bluetooth™ hands-free kit structure in which the structure includes only one Bluetooth™ module; a Bluetooth™ hands-free kit structure configured to be capable of seamlessly transferring the vocal signals during a phone call from being outputted by the audio output to being outputted by the Bluetooth™ earphone, the transfer being triggered by the removal of the earphone from the stand; a Bluetooth™ hands-free kit structure configured to be capable of seamlessly transferring the vocal signals during a phone call from being outputted by the Bluetooth™ earphone to being outputted by the audio output, the transfer being triggered by docking the earphone with the stand.

Zablocki et al. is cited as teaching a radio transmitter and a radio receiver.

Zablocki et al. does not teach: a Bluetooth™ hands-free kit structure, including an integrated Bluetooth™ earphone, a stand, and an integration of audio output apparatus, as recited in claim 1. Nor does the reference teach: a Bluetooth™ hands-free kit structure in which wherein the structure includes only one Bluetooth™ module; a Bluetooth™ hands-free kit structure configured to be capable of seamlessly transferring the vocal signals during a phone call from being outputted by the audio output to being outputted by the Bluetooth™ earphone, the transfer being triggered by the removal of the earphone from the stand; a Bluetooth™ hands-free kit structure configured to be capable of seamlessly transferring the vocal signals during a phone call from being outputted by the Bluetooth™ earphone to being outputted by the audio output, the transfer being triggered by docking the earphone with the stand.

The Examiner's use of Official Notice does not supply any of the above outlined deficiencies.

Even if the teachings of Dyer, Banh et al., Yamaguchi et al., Zablocki et al. and Official Notice were combined, as suggested by the Examiner, the resultant combination does not suggest: a Bluetooth™ hands-free kit structure, including an integrated Bluetooth™ earphone, a stand, and an integration of audio output apparatus, as recited in claim 1.

Nor does the combination suggest: a Bluetooth™ hands-free kit structure in which the structure includes only one Bluetooth™ module; a Bluetooth™ hands-free kit structure configured to be capable of seamlessly transferring the vocal signals during a phone call from being outputted by the audio output to being outputted by the Bluetooth™ earphone, the transfer being triggered by the removal of the earphone from the stand; a Bluetooth™ hands-free kit structure configured to be capable of seamlessly transferring the vocal signals during a phone call from being outputted by the Bluetooth™ earphone to being outputted by the audio output, the transfer being triggered by docking the earphone with the stand.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over 40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an

alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either Dyer, Banh et al., Yamaguchi et al., Zablocki et al., or Official Notice that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither Dyer, Banh et al., Yamaguchi et al., Zablocki et al. nor Official Notice disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's claims.


Summary

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

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